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| 09/409,617      | 10/01/1999  | DAVID MICHAEL SHACKELFORD | TU9-99-029          | 5644             |

24033 7590 02/04/2004

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| EXAMINER |
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LANIER, BENJAMIN E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2132     | 7            |

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/409,617

Applicant(s)

SHACKELFORD, DAVID MICHAEL

Examiner

Benjamin E Lanier

Art Unit

2132

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
GILBERTO BARRON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments that the Ross reference does disclose that a first computer system, the one providing the software, receive a request for software from the second computer system, on which the software is to be installed, then transmits an encrypted message to the second computer system, and then receives an encrypted response from the second computer system is not persuasive because Ross discloses a user paying for software (request for software from the second computer system on which the software is to be installed), then the user receives an enabler key and an encrypted license (then transmits an encrypted message to the second computer system). Receiving an encrypted response from the second computer system is not a limitation of claims 1, 16, or 27.

Applicant's argument that the Ross reference does not disclose that the computer to receive the software send a message and then the computer providing access to the software send an encrypted message, and then also receive a response to such encrypted message is not persuasive because this is not a limitation of claims 1, 16, or 27.

Applicant's argument that the Ross reference does not disclose determining whether there is a code made available by the second computer system capable of decrypting the received encrypted response and decrypting the encrypted response with the determined code if there is one determined code is not persuasive because the access granting computer system of Ross transmits the enablement key (determined code) to the requesting computer system upon payment therefore the access granting computer already knows that the system has the enablement key, which meets the determining limitation.

Applicant's argument that the Ross reference does not disclose a random component is included in the encrypted message sent to the second computer system on which the software is installed, and that the system granting access determine whether a response from the second computer on which the software is to be installed includes the random component is not persuasive because this is not a limitation of claims 4, 19, or 30, and Ross discloses that the enablement key (part of the encrypted message) may comprise random elements (random component)(Col. 3, lines 22-24),

Applicant's argument that the Ross reference does not disclose the installer or system on which the licence is to be activated send a random component that is used to determine whether the installer or enablement process may have the enabler key to activate the software is not persuasive because this is not a limitation of claims 4, 19, or 30.

Applicant's argument that the Ross reference does not disclose that the computer software is installed on the second computer system when the software is transmitted is not persuasive because Ross discloses the transmission of a software installer (Col. 3, lines 14-55).

Applicant's argument that the Ross reference does not disclose determining whether the second computer can access the resource by determining whether the a message in the encrypted response matches a message the first computer sent to the second computer, and that the message transmitted to the second computer system is encrypted with a private key of the first computer system that is the only key capable of being decrypted by a public key associated with the first computer system and that the encrypted response from the second computer system is encrypted with the second computer system's private key, wherein the first computer system has a public key of the second computer system for decrypting the encrypted response is not persuasive because Ross discloses that a checksum is generated at the user computer using the enabler key (public key) and that when the license is received, it is verified by comparing it's own checksum with that of the enabler key at the user computer (Col. 7, lines 33 - 55).

Applicant's argument that the Ross reference does not disclose that any message sent from the computer system which provides access to the software, includes a request for configuration resources is not persuasive because Ross discloses the licensing process prompting the installer for a product type and version and the desired features (configuration data)(Col. 7, lines 33-36).